

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38042-2015 (O&M)

Date of Decision: 04.02.2020

S.K. Garg and another

.. Petitioners

Vs.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Sushma Verma, Advocate for the petitioners.

Ms. Tanushree Gupta, DAG, Haryana.

Mr. Piyush Khanna, Advocate for
Mr. Deepak Kundu, Advocate
for respondent No.2.

...

Manoj Bajaj, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of Criminal Complaint No. (RBT) 01 of 2013, titled as "*Smt. Reshma Vs. Sh. Yunish Khan and others*" (Annexure P-1) qua petitioners/accused Nos.3 and 4 respectively, alongwith summoning order dated 13.05.2015 (Annexure P-4), whereby the petitioners were summoned for commission of offence punishable under Section 420 IPC and the order dated 21.04.2015 (Annexure P-3) passed by revisional court, whereby the initial summoning order dated 24.08.2013 was set aside and remanded the case back to the Court of JMIC, Panipat for deciding a fresh.

After hearing the learned counsel for the parties, this Court finds that the Judicial Magistrate 1st Class, Panipat vide order dated 24.08.2013 summoned only two accused persons, namely, Yunish Khan s/o Hakimuddin and Fatima w/o Yunish Khan. The said order was carried in

revision by the complainant (Reshma) and the revisional Court remanded the matter back before the trial Court with a direction to consider the pre-summoning evidence and the report under Section 202 Cr.P.C. and pass a fresh order. The operative part of para 10 of the order dated 21.04.2015 reads as under:

“In these circumstances, the impugned order is hereby set aside and the complaint is remanded back to ld. trial Court with directions to consider the preliminary evidence as well as report under Section 202 Cr.P.C. and to pass fresh order accordingly. Revision in hand is disposed of accordingly.”

The above order was never challenged by the petitioners, however, the trial Court vide impugned order dated 13.05.2015 proceeded to summon the petitioners with the following observation:

“Vide order dated 24.08.2013, accused Nos.1 and 2 were summoned to face trial under Section 406 and 420 IPC. Now, in the light of order dated 21.04.2015 passed by Sh. Devender Singh, Ld. Addl. Sessions Judge, Panipat, accused No.3 and 4 are also summoned. Hence, accused No.3 and 4 be summoned under Section 420 IPC for 11.06.2015 to face trial under aforesaid section on filing of copy of complaint etc.”

A reading of the above would indicate that the trial Court has not at all considered the pre-summoning evidence and the report under Section 202 Cr.P.C., therefore, the said order is apparently non-speaking and not sustainable. Resultantly, the order dated 13.05.2015 is set aside and

the case is remanded back to the trial Court for passing a fresh order as directed by the Revisional Court.

The petition is disposed off.

04.02.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No